



UNITED STATES PATENT AND TRADEMARK OFFICE

AL

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,312	01/24/2002	Daryl S. Meredith	TN-1488	9558

7590 02/15/2005
Adan Ayala, Esq.
Black & Decker Inc.
701 E. Joppa Road, TW-199
Towson, MD 21286

EXAMINER

HAMILTON, ISAAC N

ART UNIT PAPER NUMBER

3724

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,312

Applicant(s)

MEREDITH ET AL.

Examiner

Isaac N Hamilton

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ushiwata et al (5,425,294), hereafter Ushiwata, in view of Tsune (5,974,927). Ushiwata discloses base 1; rotatable table 2; plane is the top surface of table 2; saw assembly 8; motor 11; blade 10; arbor 9; first portion is the section of arbor 9 that is closest to blade 10, in other words, the portion that is to the left of the vertical line A-A in figure 12, and that is labeled 9 in figure 13; first gear 9 in column 3, line 22; intermediate gear 17; second gear 12; pivot arm 6; first position in figure 12; second position in figure 4 and column 3, lines 3-5; if the position in figure 12 were changed to the second position, so that the pivot arm is at a 45 degree angle relative to the table, then the second portion would be closer to the first portion. Ushiwata does not disclose a belt, however, Tsune discloses a belt in column 2, line 14. It would have been obvious to provide a belt in Ushiwata as taught by Tsune in order to provide a backlash eliminator assembly, which eliminates backlash between gears. The backlash eliminator assembly of Tsune is attached to the apparatus in Ushiwata by replacing the motor 11 (Ushiwata) with pulley 9 (Tsune), then relocating the motor in order to make room for the backlash eliminator 16. Figure 2 of Tsune

Art Unit: 3724

suggests that there is not enough room for the backlash eliminator and the motor to be adjacent one another, and therefore the motor, belt and pulley system are utilized.

Response to Arguments

3. Applicant's arguments filed 12/17/2004 have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, applicant asserts that there is no suggestion to combine the Ushiwata and Tsune references. It is believed that the suggestion to combine the references lies in the Tsune reference. The Tsune reference discloses a backlash eliminator assembly, which eliminates backlash between gears. Since Ushiwata is configured with several interacting gears, the Tsune backlash eliminator is an improvement to the apparatus in Ushiwata and it would have been obvious to one of ordinary skill in the art to combine them. Moreover, the assembly in Tsune requires that the motor be driven with a belt and pulley system due to design constraints concerning space for the backlash eliminator. Although the belt and pulley system are not a part of the backlash eliminator, the belt and pulley are required in the configuration of any apparatus that has the backlash eliminator because of the spatial arrangements and spatial constraints. Applicant asserts that the Ushiwata and Tsune references do not disclose the desirability of the

Art Unit: 3724


claimed invention, which is to increase the cutting capacity in different cutting orientations. It is believed that Ushiwata and Tsune do not disclose any increase in cutting capacity in different cutting orientations; however, the limitations do not explicitly claim an increase in cutting capacity in different cutting orientations. Moreover, Ushiwata and Tsune do disclose all of the structural limitations of the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

17
IH
February 10, 2005


Allan N. Shoap
Supervisory Patent Examiner
Group 3700